

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

JERRY LAMONT BARNES,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 3:08CV840
)	
DANIEL A. BRAXTON,)	
)	
Respondent.)	

**MEMORANDUM OPINION
(Denying Certificate of Appealability)**

Jerry Lamont Barnes (“Barnes”), a Virginia prisoner proceeding *pro se* and *in forma pauperis*, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On October 19, 2009, the Court granted Respondent’s motion to dismiss and dismissed Petitioner’s action. The Court did not issue or deny a certificate of appealability. Petitioner appealed the Court’s decision to the United States Court of Appeals for the Fourth Circuit. The Fourth Circuit remanded to this Court “for the limited purpose of . . . supplement[ing] the record with an order granting or denying a certificate of appealability.” *Barnes v. Braxton*, No. 11-6905, at 2 (4th Cir. July 20, 2011).

An appeal may not be taken from the final order in a § 2254 proceeding unless a judge issues a certificate of appealability (“COA”). 28 U.S.C. § 2253(c)(1)(A). A COA will not issue unless a prisoner makes “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). This requirement is satisfied only when “reasonable jurists could debate whether (or, for that matter, agree that) the petition

should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)). No law or evidence suggests that Petitioner is entitled to further consideration in this matter. A certificate of appealability will therefore be denied.

An appropriate Order will accompany this Memorandum Opinion.



/s/

Henry E. Hudson
United States District Judge

Date: July 25, 2011
Richmond, Virginia